

## DIGITAL MILLENNIUM COPYRIGHT ACT

# Service Provider Designation of Agent to Receive Notification of Claims of Infringement

The *Digital Millennium Copyright Act*, signed into law on October 28, 1998, amended the United States Copyright Act, Title 17 of the U.S. Code, to provide in part certain limitations on the liability of online service providers (OSPs) for copyright infringement. *Subsection 512(c)* of the Copyright Act provides limitations on service provider liability for storage, at the direction of a user, of copyrighted material residing on a system or network controlled or operated by or for the service provider, if, among other things, the service provider has designated an agent to receive notifications of claimed infringement by providing contact information to the Copyright Office and by posting such information on the service provider's website in a location accessible to the public. The provision of information to the Copyright Office about the service provider's designated agent is a condition for reliance on the limitations on liability for service providers.

The Copyright Office has created a directory of designated agents from the designations filed with the Office for those service providers seeking the limitations on liability contained in § 512(c). A copyright owner of an exclusive right, or authorized agent of a copyright owner, may use the Office's directory of designated agents to find the designated agent of a service provider that is hosting claimed infringing material, and may use that information to send a notification of claimed infringement to the service provider's designated agent. (See § 512(c)(3) for the required elements of notification.) Upon receipt of a compliant notification of claimed infringement, a service provider must respond expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of the infringing activity, if the service provider seeks to receive the benefits of the limitations of liability contained in § 512(c). A service provider is not required by law to remove the allegedly infringing material, but upon receipt of a compliant notification will be deemed to have been placed on notice of the allegedly infringing activity, and without the benefit of the limitations on liability contained in § 512, may face secondary liability for continuing to host the allegedly infringing material.

The Copyright Office published *interim regulations* specifying the procedure by which a service provider may designate an agent to receive notifications of claimed infringement. The Copyright Office

does not provide printed forms for designating an agent, but makes available on this website suggested formats for filing an *Interim Designation* or an *Amended Designation*. An Amended Designation will replace in its entirety (not supplement) an Interim Designation or a prior Amended Designation for the same service provider. The Office has provided an Interim Designation template that may be used to designate an agent. Persons using this template have the option of filling in the blanks while viewing the form online and then printing out and signing the completed form, downloading the form for later use, or printing the blank form and completing it offline. Regardless of the method of completing the form, a printed copy of the completed form, together with the appropriate fee, must then be mailed or hand-delivered to the Copyright Office.

Although the Copyright Office encourages the use of the Office's interim designation template (in part, because Copyright Office staff are familiar with this format and therefore the use of this form will simplify processing), service providers may prepare their own form, but should ensure that it includes all the information required in [section 201.38](#) (c ) or (f), as appropriate, of the interim regulations. Please note that the entire Interim Designation or Amended Designation that is submitted will be posted on the Copyright Office's website. Only include information in the designation submission that is intended to be publicly posted. If extraneous information is included in the submission that is not required by the interim regulations, that information will also be scanned and posted on the website. If a service provider is paying the appropriate fee from a Copyright Office deposit account, a cover letter with the deposit account information should be submitted together with the designated agent form, not contained on the form itself.

An Interim Designation or an Amended Designation should be accompanied by the appropriate fee (which has been increased since the Interim Regulations were published), payable to the Register of Copyrights. Please note that the fee for filing includes a designation of an agent includes the ability to list only one name of the service provider, i.e., the service provider's legal name. If additional, alternative names are filed with the Office, each group of 10 alternative names (or fewer) will require the payment of an additional fee, currently \$35, in addition to the \$105 basic filing fee. For example, if a service provider seeks to list five alternative names by which the service provider is doing business (e.g., five website domains), the fee for such filing would be \$140 (\$105 for the basic designation plus \$35 for the five alternative names).

Amended designations must be accompanied by the basic filing fee, and will replace the prior record. If the service provider wishes to list alternative names with the amended designation, the additional

fee for each group of 10 or fewer names must be provided. Any additional names listed in an amended designation will replace, not supplement, the alternative names that will be associated with the service provider. In order to add additional names to the existing alternative names listed for a service provider, all of the alternative names should be listed cumulatively on an amended designation, and the appropriate fee should be calculated based on the total of all of the alternative names listed.

If mailed, the designation should be addressed to: **U.S. Copyright Office, Designated Agents, P.O. Box 71537, Washington, DC 20024-1537**. A service provider may also file a designation in person by delivering it to the Public Information Office of the Copyright Office, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE, Washington, DC, Monday-Friday, 8:30 a.m. to 5:00 p.m. Eastern Time, except federal holidays.

The Copyright Office reviews each designation for obvious error (e.g., that the entity listed as the service provider does not name another legal entity as its alternative name) and to ensure that all requisite information has been provided (e.g., full legal name, complete address, signature); it does not substantively examine the designations of agents for accuracy or for compliance with the law or with Copyright Office regulations. The fact that the Office has accepted a designation of an agent and has included it in the Office's directory of agents should not be construed as a judgment by the Office that the designation is sufficient, accurate, or error-free.

**DEFINITION:** *For purposes of section 512(c), a “service provider” is defined as a provider of online services or network access, or the operator of facilities therefor, including an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user’s choosing, without modification to the content of the material as sent or received.*